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C.M.A.No.84 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2024

CORAM :

The Hon'ble Mr. Justice Krishnan Ramasamy

C.M.A.No.84 of 2024

1. Kamatchi
2. Vijiyalakshmi
3. Jayalakshmi
4. Kanniyammal

... Appellants

Vs.

1. S.Ajith Kumar
2. New India Assurance Co.Ltd.,
Motor Claims III Party Cell,
No.223, NSC Bose Road,
Chennai 600 001.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the Judgment and Decree dated 30.11.2022 made in M.A.C.T.O.P.No.3313 of 2018 on the file of II Court of Small Causes, Chennai.

For Appellants : Mr.K.V.Muthu Visakan

For R1 Notice not ready

For R2 : Mr.J.Chandran



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JUDGEMENT

This Civil Miscellaneous Appeal has been filed by the appellants/claimants, challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal in M.A.C.T.O.P.No.3313 of 2018 dated 30.11.2022.

2. On 29.03.2018, at about 19.20 hours, the deceased namely Mr.Raji, while crossing the road, was hit by a car bearing Reg.No.TN-14-D-7425, which came in a rash and negligent manner. Due to the said accident, the deceased sustained grievous injuries all over his body and died on the spot. Hence, the claimants, being the wife, daughter and mother of the deceased made a claim petition before the Tribunal claiming a compensation of Rs.35,00,000/-.

3. On consideration of oral and documentary evidence, the Tribunal has awarded a sum of Rs.13,70,600/-. Being not satisfied with the same, the appellants/claimants have preferred the present appeal.



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4. The learned counsel for the appellants/claimants would submit that at the time of accident, the deceased was working as a Painter and earning a sum of Rs.700/- per day. However, without considering the same, the Tribunal had erroneously fixed the monthly notional income of the deceased at a sum of Rs.12,000/-, which is very meager, and the same needs to be modified and enhanced by this Court. Further, he submitted that the Tribunal has not awarded any amount towards “transportation”, and the same may be awarded by this Court. Accordingly, he prays for appropriate enhancement of the compensation in favour of the appellants.

5. The learned counsel for the second respondent/Assurance Company would fairly submit that any fair amount towards notional income may be re-determined by this Court.

6. Heard the learned counsel for the appellants and the learned counsel appearing on behalf of the second respondent and perused the materials available on record.



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7. In the present case, as noticed above, at the time of accident, the deceased was a Painter and aged about 53 years, earning a sum of Rs.700/- per day. The notional income fixed by the Tribunal at a sum of Rs.12,000/-, which is on the lower side. Hence, this Court, in the light of the law laid down by the Hon'ble Supreme Court in the case of ***Syed Sadiq Vs. United India Insurance Company***, reported in **2014 (1) TNMAC 459 (SC)**, wherein the Apex Court fixed the notional monthly income even for a vegetable vendor at Rs.6,500/-, who sustained injuries in the accident occurred in the year 2008, by applying the multiplier based on cost inflation index, in the absence of any proof for income, it would come more than a sum of Rs.13,000/-. Taking into consideration of the nature of employment of the deceased and applying the cost inflation, this Court feels it appropriate to fix the notional income of the deceased at a sum of Rs.15,000/- per month, which is just and fair. Thus, by fixing the notional income of the deceased at Rs.15,000/-; adding 10% future prospects; deducting 1/4th towards his personal expenses; and by adopting right multiplier of '11' (since the deceased was aged 53 years), the compensation towards Loss of Dependency is calculated as under:-



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<i>Loss of Income</i>	<i>Amount in Rs.</i>
Notional income (Per month)	15,000
Add: Future Prospects (Rs.15,000 x 10%) (Per month)	1,500
	16,500
Less: Personal expenses (1/4 th) (Rs.16,500/- x 1/4) (Per month)	4,125
	12,375
Notional income (per annum) (Rs.12,375/- x 12)	1,48,500
Multiplier	11
Total	16,33,500

8. Consequently, the sum of **Rs.11,61,600/-** awarded by the Tribunal under the head of 'Loss of Dependency' is hereby modified to **Rs.16,33,500/-**. Further, this Court finds that the Tribunal has not awarded any amount towards “transportation”. Hence, this Court is inclined to award a sum of Rs.10,000/- towards “transportation”.

9. Insofar as the compensation awarded by the Tribunal under other heads are concerned, this Court finds that the same are just and proper and are hereby confirmed. Thus, the total compensation payable to the claimants under various Heads is as hereunder:-



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<i>Heads</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
Loss of dependency	11,61,600/-	16,33,500/- (enhanced)
Funeral expenses	16,500/-	16,500/-
Loss of Estate	16,500/-	16,500/-
Loss of consortium	1,76,000/-	1,76,000/-
Transportation	Nil	10,000/- (awarded)
Total	13,70,600/-	18,52,500/-

10. Accordingly, the Appeal is partly allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from **Rs.13,70,600/-** to **Rs.18,52,500/-**. The second respondent/Assurance Company is directed to deposit the said amount to the credit of M.A.C.T.O.P.No.3313 of 2018 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. Upon such deposit being made, the Tribunal is directed



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to transfer the entire amount to the respective bank accounts, by way of RTGS, within a period of three weeks from the deposit or from the date of receipt of the Bank details obtained from the claimants or application for withdrawal from the claimants, whichever is later. Out of total compensation availed to the appellants; first appellant, the wife of the deceased is entitled to a sum of **Rs.12,52,500/-** together with proportionate interest; second and third appellants; the daughter of the deceased are entitled to a sum of **Rs.2,00,000/-** each, together with proportionate interest; the fourth appellant, the mother of the deceased is entitled to a sum of **Rs.2,00,000/-** together with proportionate interest. The appellants/claimants are directed to pay the necessary Court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced amount till such time the certified copy showing proof of payment of Court fee has been produced by the claimants. No costs.

04.03.2024

Index : Yes / No
NCC : Yes / No
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Krishnan Ramasamy,J.,

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To

1. The Motor Accident Claims Tribunal,
II Small Causes Court,
Chennai.
2. The Section Officer,
V.R. Section,
High Court, Madras.

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